

**124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-9589-2019

Date of decision-01.03.2019

Mehar Singh

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Kamaljeet Kaur, Advocate for the petitioner.

MANOJ BAJAJ, J.

Through this petition under Section 482 Cr.P.C the order dated 30.07.2018 (Annexure P-3) passed by the learned Sessions Judge, Jind has been challenged, whereby application under Section 311 Cr.P.C. filed by the accused (petitioner) was dismissed. The order arises from the trial proceedings in case FIR No.166 dated 30.07.2016 under Sections 379-B and 120-B of the Indian Penal Code ('IPC' for short) and Section 25 of Arms Act, registered at Police Station Pillu Kheda, District Jind.

An application under Section 311 Cr.P.C, was filed by petitioner to recall prosecution witnesses i.e. Sukhlal (PW-1) and Shankar Lal (PW-2) for re-cross examination as few questions need to be put to witnesses. It was pleaded that previous counsel did not cross examine the witnesses effectively. It is contended by learned counsel for the petitioner that cross-examination of the witnesses is very much essential for the just decision of the case and no prejudice would be caused to the prosecution.

The learned trial Court vide its order dated 30.07.2018

dismissed the application with the observation that the ground raised in the application is not justified for recalling the witnesses for re-examination and fresh cross-examination.

Learned counsel has been heard and case file perused carefully.

No doubt the power contemplated under Section 311 Cr.P.C empowers the Court to summon a witness at any stage of any inquiry, trial or proceedings either as an additional witness or for re-examination of a witness. This power is aimed to facilitate the Court to find out the truth and to reach at a just conclusion. At the same time, before resorting to the said provision, there must exist a reasonable ground for exercising this extraordinary power either *suo moto* or upon an application given by any of the parties. The application must offer sufficient explanation and reasons for exercise of power under Section 311 Cr.P.C.

In the present set of facts and circumstances of the case, the witnesses sought to be recalled have already appeared before the Court on 08.08.2017 and their cross-examination also stood concluded. The change of counsel cannot be said to be a sufficient reason for recalling the witnesses again for cross-examination. Therefore, the Court has rightly declined the application filed after one year of the examination of the witnesses.

In view of the above, the petition fails and the same is dismissed.

01.03.2019

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No